

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

TRIUMPH AEROSTRUCTURES, VOUGHT AIRCRAFT DIVISION)	
)	
and)	Case Nos. 16-CA-197912
)	16-CA-198055
LAWRENCE HAMM, and Individual)	16-CA-198410
)	16-CA-198417
and)	
)	
RODNEY HORN, an Individual)	
)	
and)	
)	
THOMAS SMITH, an Individual)	
)	
and)	
)	
INTERNATIONAL UNION, UNITED)	
AUTOMOBILE, AEROSPACE AND)	
AGRICULTURAL WORKERS OF)	
AMERICA, LOCAL 848)	

**TRIUMPH’S CROSS-EXCEPTIONS TO THE
DECISION OF THE ADMINISTRATIVE LAW JUDGE**

Pursuant to Section 102.46(c) of the Rules and Regulations of the National Labor Relations Board, Respondent Triumph Aerostructures (“Triumph” or “Respondent”) files the following cross-exceptions to the Decision of Administrative Law Judge Robert A. Ringler [JD-74-19] issued on September 30, 2019 in the above-captioned case:

1. The judge’s application of *Oberthur Technologies*, 368 NLRB No. 5 (2019) to the allegations related to the termination of employee Thomas Smith and the suspension of employee Rodney Horn (ALJD at 4:9-14).

2. The Board should overturn *Total Securities Management*, 364 NLRB No. 106 (2016).
3. The judge's failure to find the allegations related to the termination of employee Thomas Smith and the suspension of employee Rodney Horn should be dismissed under the equitable estoppel doctrine (ALJD at 3:33-4:14).
4. The judge's ruling granting the Union's petition to revoke the subpoenas *duces tecum* issued by Triumph to Lawrence Hamm, Michael Kindley, Rodney Horn, Thomas Smith, UAW Local 848 and the UAW International Union (R. Exh. 1).
5. The judge's finding that Triumph's initial proposal was its April 5, 2017 loan framework, instead of the status quo reduction in force ("RIF") policy (ALJD at 6:38).
6. The judge's finding that the Union's April 14, 2017 letter was a "counter" (ALJD at 9:7).
7. The judge's reference to the Union's April 14, 2017 letter as a "proposal" (ALJD at 9:45).
8. The judge's finding that the Union requested additional days to bargain after Triumph rejected the Union's proposal at the April 19, 2017 bargaining session (ALJD at 10:26-30).
9. The judge's finding that the April 21, 2017 RIF was conducted in accordance with Triumph's "final layoff proposal", instead of the status quo RIF policy (ALJD at 11:17-18).
10. The judge's finding that the April 21, 2017 RIF was conducted in accordance with Triumph's "last proposal", instead of the status quo RIF policy (ALJD at 12:27-28).
11. The judge's finding that the April 21, 2017 RIF was conducted in accordance with Triumph's "last layoff proposal", instead of the status quo RIF policy (ALJD at 13:6-7).

12. The judge's failure to cite and apply Board law regarding bargaining in circumstances involving economic exigency and find that the notice and bargaining here was adequate under that case law (ALJD at 11:20-13:7).

13. The judge's failure to find the Union waived bargaining over Triumph's decision to reduce bond shop headcount, and instead pursued bargaining over effects issues only (ALJD at 12:20-13:7).

14. The judge's failure to consider the parties' bargaining history regarding the May 2015 RIF in the bond shop at Red Oak (ALJD at 12:29-32).

15. The judge's failure to consider the importance of the issues over which the parties disagreed regarding the RIF and alternative procedures and rights (ALJD at 12:20-13:7).

16. The judge's failure to consider the evidence of the parties' understanding of the state of the bargaining related to the RIF (ALJD at 12:20-13:7).

17. In the alternative, the judge's failure to find that even if the record supports a bargaining violation, the appropriate remedy is the "effects bargaining" remedy set forth in *Transmarine Navigation Corp.*, 170 NLRB 389 (1968), rather than full reinstatement and back pay.

Dated: January 27, 2020

Respectfully Submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Cross-Exceptions to the Administrative Law Judge's Decision was filed today, January 27, 2020, using the NLRB's e-filing system, and was served via electronic mail on:

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